

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Rachel Ellman	Team: Squad #13	CCRB Case #: 201608584	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Wednesday, 10/05/2016 4:18 AM	Location of Incident: Front of § 87(2)(b)	Precinct: 32	18 Mo. SOL 4/5/2018	EO SOL 4/5/2018	
Date/Time CV Reported Wed, 10/05/2016 5:50 AM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Tue, 10/11/2016 1:08 PM		
Complainant/Victim	Type	Home Address			
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)			
Witness(es)	Home Address				
§ 87(2)(b)	§ 87(2)(b)				
Subject Officer(s)	Shield	TaxID	Command		
1. DTS Salahudin Clark	796	941566	032 PCT		
Witness Officer(s)	Shield No	Tax No	Cmd Name		
1. POM Christophe Boria	26858	953693	032 PCT		
2. POM Carlito Dejesus	21025	958484	032 PCT		
Officer(s)	Allegation			Investigator Recommendation	
A.DTS Salahudin Clark	Force: Detective Salahudin Clark struck § 87(2)(b) with a baton.			§ 87(2)(b)	

Case Summary

This incident was reported to IAB on October 5, 2016 by Sgt. Christopher Chance, the 32nd Precinct desk sergeant at the time of the incident, generating log #2016-35897.

On October 5, 2016, at approximately 4:00 a.m., Det. Salahudin Clark and PO Carlito DeJesus, both of the 32nd Precinct, registered a license plate hit on a Chrysler Pacifica reported missing by § 87(2)(b). The officers made preparations to tow the vehicle, which was parked near the intersection of West 129th Street and Lenox Avenue in Manhattan, at which point § 87(2)(b) § 87(2)(b) cousin, exited a nearby building, approached the officers, and told them that the car was his and that he could furnish keys for the vehicle from his residence at § 87(2)(b) § 87(2)(b) approximately two blocks away near the intersection of § 87(2)(b) § 87(2)(b).

§ 87(2)(b) fled northbound and PO DeJesus followed. While running, § 87(2)(b) looked back behind him and tripped, falling forward and sustaining a laceration to his left forehead. § 87(2)(b) was apprehended by PO DeJesus on the sidewalk outside of § 87(2)(b) PO DeJesus grabbed § 87(2)(b) from behind as he attempted to enter into his apartment building, and the two began to shove each other. Det. Clark then approached in a marked police vehicle, and pulled up onto the sidewalk within feet of § 87(2)(b) and PO DeJesus. PO DeJesus wrestled § 87(2)(b) and was able to press him up against the right side of the vehicle and bend his body over the hood.

Det. Clark exited the vehicle and approached PO DeJesus and § 87(2)(b) with his arm raised. Within seconds, Det. Clark struck § 87(2)(b) with his baton to his left shoulder, and slightly backed away from § 87(2)(b). At this point, PO DeJesus held § 87(2)(b)'s right side and his body was relatively still. Det. Clark then struck § 87(2)(b) seven times on his calves, Det. Clark then paused and pressed up against § 87(2)(b)'s upper body, backed up again, and struck § 87(2)(b) twice on the calves. Det. Clark paused again, and then again struck § 87(2)(b) twice on the calves. PO DeJesus was atop § 87(2)(b) for the entirety of the incident, and § 87(2)(b)'s resistance was limited to not providing the officers with his hands.

§ 87(2)(b) was taken to § 87(2)(b) Hospital, and was charged with unauthorized use of an automobile. At the hospital, a small amount of marijuana was recovered from § 87(2)(b)'s person.

§ 87(2)(g)

Mediation, Civil and Criminal Histories

- § 87(2)(b) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
- § 87(2)(b) [REDACTED] has not filed a notice of claim in relation to this incident. (Board Review 02)
- This case is not eligible for mediation due to § 87(2)(b) [REDACTED]'s arrest.

Civilian and Officer CCRB Histories

- This is § 87(2)(b)'s first CCRB complaint. (Board Review 12)
- Det. Clark has had seven allegations in four cases during his 10 year tenure with the NYPD, none of which have been substantiated. In 200807867, Det. Clark was exonerated for physical force, and his remaining allegations were either unsubstantiated or truncated. In 201001970, Det. Clark was alleged to have struck a civilian twice with his baton while attempting to arrest him, yet the case truncated. (Board Review 03)

Video Footage

Video footage was obtained from § 87(2)(b), located at § 87(2)(b) and is accurately time stamped. The incident is seen from two angles:

Video 1: Facing northbound toward § 87(2)(b) (Board Review 10)

- The video begins with § 87(2)(b) running toward the entrance of § 87(2)(b) with PO DeJesus close behind him. The two are briefly not visible as § 87(2)(b) attempts to gain entrance into the building, yet they soon reemerge entangled. PO DeJesus is facing § 87(2)(b) and has a hold onto his wrists, while § 87(2)(b) is flailing his arms to free himself.
- At 4:13:31 a.m., Det. Clark drives onto the sidewalk in a marked RMP with its lights on; Det. Clark pulls up within yards of PO DeJesus and § 87(2)(b). PO DeJesus maneuvers § 87(2)(b) so that § 87(2)(b) is pressed against the hood of the vehicle. At this time, PO DeJesus stands toward the front of the vehicle and has a grasp on § 87(2)(b)'s right arm, while § 87(2)(b) leans over the hood of the car with his arms in front of him. Near immediately, Det. Clark emerges from the vehicle with his left arm raised.
- At 4:13:40 a.m., Det. Clark makes contact with § 87(2)(b)'s left shoulder, and he and PO DeJesus press § 87(2)(b) up against the car.
- At 4:13:42 a.m., Det. Clark steps back and swiftly pulls his left arm up and down. At this point, § 87(2)(b) is completely bent over the hood of the car. Det. Clark then bends over and strikes § 87(2)(b) twice on his lower leg, briefly pauses, and then strikes § 87(2)(b) twice more.
- At 4:13:46 a.m., Det. Clark stands up slightly and looks in § 87(2)(b)'s direction. At 4:13:38 a.m., Det. Clark strikes § 87(2)(b) once more. Det. Clark then appears to shift leftward, so that he is directly behind § 87(2)(b) rather than to his right side. Note, at this time, PO DeJesus is holding § 87(2)(b) from his right side. PO DeJesus stands an arm's length away—his body is still and he oscillates between looking at Det. Clark and § 87(2)(b).
- At 4:13:50 a.m., Det. Clark strikes § 87(2)(b) on the legs, after which § 87(2)(b) slightly raises his head and looks toward his left. Det. Clark then stands up and comes atop § 87(2)(b)'s back.
- Det. Clark is atop § 87(2)(b) until 4:13:53 a.m., at which point Det. Clark bends down and strikes § 87(2)(b) on his lower legs. When Det. Clark ducks down, PO DeJesus is no longer obscured, and is seen with two hands across § 87(2)(b)'s upper back.
- At 4:13:58 a.m., Det. Clark stands up and comes atop § 87(2)(b)'s head is slightly raised and his left forearm is seen at a 90 degree angle on the hood of the car. At 4:14:08 a.m., § 87(2)(b) is seen splayed out on the hood of the car with his hands in front of him. At 4:14:10 a.m., PO Boria is seen approaching the scene.
- At 4:14:14 a.m., Det. Clark steps back, bends down, and strikes § 87(2)(b) twice to his lower legs.

- At 4:14:15 a.m., § 87(2)(b)'s head quickly rises off the hood and abruptly falls back down on it. At this time, PO DeJesus' hand is visibly grabbing § 87(2)(b)'s left shoulder.
- At 4:14:20 a.m., Det. Clark steps back, PO Boria steps in, and § 87(2)(b) is soon handcuffed.



Lambert 1.mp4

Video 2: Southbound toward § 87(2)(b) (Board Review 11)

Note: Much of § 87(2)(b)'s apprehension is outside the frame of this video.

- At 4:13 a.m., § 87(2)(b) runs into the bottom right corner of the frame and is followed by PO DeJesus, who soon follows him off-screen. Soon after, a marked vehicle pulls up with lights slashing.
- At 4:13:40 a.m., § 87(2)(b)'s head is visible, as his body appears to be pressed against the hood of the car, and Det. Clark appears behind him. Det. Clark raises his left arm above his head.
- Det. Clark is off-screen until 4:13:51 a.m., at which point he is seen leaning over § 87(2)(b). It is unclear if Det. Clark touches § 87(2)(b) at this point. At 4:13:54 a.m., Det. Clark backs away off-screen.
- At 4:13:58 a.m., both Det. Clark and PO DeJesus press their hands on § 87(2)(b)'s upper back. Det. Clark then speaks into his radio.
- At 4:14:14 a.m., Det. Clark steps back away from § 87(2)(b) who is still pressed against the hood of the vehicle, with his arm raised. Soon after, a third officer arrives and takes Det. Clark's place on § 87(2)(b)'s left side.



Lambert 2.mp4

Findings and Recommendations

Allegations not pleaded

Force (hit against vehicle) is not pleaded against PO DeJesus as neither PO DeJesus nor § 87(2)(b) was able to testify to the matter. In Video 1 at 4:14:12 a.m., § 87(2)(b) is seen splayed motionless over the hood of the police vehicle, with both of his arms outstretched in front of him. PO DeJesus stands to § 87(2)(b)'s right, as Det. Clark is directly behind him. PO DeJesus holds § 87(2)(b) with two hands across the top of his back. While Det. Clark is bent over, PO DeJesus' left hand is seen moving atop § 87(2)(b)'s left shoulder and he appears to grab hold of § 87(2)(b)'s shoulder. At the time, § 87(2)(b) is still motionless and his arms are extended in front of him. PO DeJesus' left hand is seen pulling back towards his own body and then moving forward. As PO DeJesus pulls his hand back, § 87(2)(b)'s head and chest rise from the hood of the car, and as PO DeJesus moves his hand forward, § 87(2)(b)'s head plummets to the hood of the vehicle. When § 87(2)(b) falls back to the vehicle his arms make no movement to brace the impact of the hood. § 87(2)(b) later underwent oral surgery on one of his front teeth, which is consistent with this narrative. (Board Review 04) Though the video suggests that PO DeJesus hit § 87(2)(b)'s motionless body against the vehicle, the investigation could not fully establish that that is what happened.

Allegation A—Det. Salahudin Clark struck § 87(2)(b) with a baton.

§ 87(2)(g)

Video documentation of this incident shows that Det. Clark struck § 87(2)(b) more than ten times on his lower back and calves.

§ 87(2)(b) stated that after discussing § 87(2)(b) vehicle, he went to retrieve the keys to the vehicle when he was grabbed by PO DeJesus. § 87(2)(b) stated that PO DeJesus pressed him against the hood of the police vehicle, and told him that he was resisting arrest. Soon after, Det. Clark struck § 87(2)(b) on the head with his baton, and § 87(2)(b) lost consciousness. § 87(2)(b) believed he was hit multiple times on the legs, yet could not recall how many times nor could he recall when and how he was handcuffed. (Board Review 05)

§ 87(2)(b)'s medical documentation from § 87(2)(b) Hospital indicates that both § 87(2)(b) and EMT responders stated that § 87(2)(b) did not lose consciousness in the course of the incident. The documentation also states that § 87(2)(b)'s primary injury was pain to his left leg and that he sustained a laceration to the left side of his forehead. (Board Review 06)

Video 1 shows PO DeJesus and § 87(2)(b) entangled in a shoving match, which is quickly resolved by PO DeJesus placing § 87(2)(b) against the hood of the police vehicle that Det. Clark drove onto the sidewalk outside of § 87(2)(b). PO DeJesus holds § 87(2)(b) by his right arm and stands approximately an arm's length away from § 87(2)(b)'s left elbow is bent against the hood of the vehicle, yet he is otherwise motionless and PO DeJesus is easily restraining him. Over the next minute, Det. Clark strikes § 87(2)(b) with his baton more than ten times, largely to his calves and lower back. Det. Clark's strikes are interspersed with Det. Clark and PO DeJesus pressing up against § 87(2)(b)'s back, yet neither appears to make an attempt to grab his hands.

PO DeJesus stated that he and Det. Clark pressed § 87(2)(b) against the police vehicle, after which he was able to place a handcuff on § 87(2)(b)'s right hand. PO DeJesus stated that § 87(2)(b) put his left hand under his body so that the officers could not gain control of it. PO DeJesus stated that Det. Clark made multiple verbal commands for § 87(2)(b) to provide his hands, yet stated that he was only focused on § 87(2)(b)'s right side, and was thus unsure if § 87(2)(b) made any attempts to grab § 87(2)(b)'s arm. At one point, PO DeJesus looked over his shoulder and Det. Clark was using his asp on § 87(2)(b)'s lower body; PO DeJesus was unsure how many times § 87(2)(b) was struck, and stated that he could not speak to Det. Clark's actions or anything beyond the scope of § 87(2)(b)'s right arm. (Board Review 07)

Det. Clark stated that he believed an impact weapon of some sort was necessary in order to combat § 87(2)(b)'s resistance; Det. Clark stated that he chose a baton because he and PO DeJesus were in too close proximity to § 87(2)(b) to use either mace or a Taser. Det. Clark stated that he could not physically grab § 87(2)(b) without hurting PO DeJesus, as PO DeJesus was atop § 87(2)(b). Det. Clark could not recall if he issued verbal commands prior to striking § 87(2)(b) with a baton. Det. Clark estimated that he hit § 87(2)(b) with his baton four times. Det. Clark stated that he believed that § 87(2)(b) was attempting to flee throughout the entirety of the incident in that his legs continued to move even as he was pressed up against the car, held down by PO DeJesus, and struck by Det. Clark. Det. Clark could not speak to § 87(2)(b)'s physical response to the baton, such as if he was screaming in pain, or, as intended, if his resistance lessened with each successive baton strike. Det. Clark stated that he did not make any attempts to gain control of § 87(2)(b)'s hands during this time, both because he was holding a baton and because it was PO DeJesus' job to do so in that he was already physically

holding § 87(2)(b) Det. Clark stated that § 87(2)(b) was only able to be handcuffed after additional officers arrived at the location. Det. Clark believed § 87(2)(b) was resisting throughout the entirety of the apprehension because he was not compliant. Det. Clark did not consider using an alternate means of securing compliance despite the fact that the baton was not effective. (Board Review 08)

Per Patrol Guide 221-02, officers are to:

- (2) Utilize de-escalation techniques when appropriate and consistent with personal safety;
- (10b) Devise a plan to restrain the subject while minimizing the possibility of injury;
- (11) Apply no more than the reasonable force necessary to gain control;
- (12) Assess the situation continually; and

Note: Abstain from impact weapons on persons who are passively resisting. (Board Review 09)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

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§ 87(2)(b), § 87(2)(g)

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Squad: 13

Investigator: _____
Signature Print Date

Squad Leader: _____
Title/Signature Print Date

Reviewer:

Title/Signature

Print

Date